

Article 18: Handling Neb. Rev. Stat. § 27-1301 Child Pornography Exhibits.

(Adopted January 27, 2010.)

§ 6-1801. Access to Neb. Rev. Stat. § 27-1301 child pornography evidence.

(A)(1) If a court concludes that evidence in a proceeding falls within the scope of Neb. Rev. Stat. § 27-1301, and based thereon limits access to or reproduction of such evidence, the court shall, unless otherwise required by law, constantly and continuously retain care, custody, and control of such property or material, except upon a specific order of that court directing otherwise, such as pursuant to § 27-1301(3)(b).

(2) If a party requests that such evidence be submitted to the appellate courts as part of the record on appeal, it shall be clearly and conspicuously identified as § 27-1301 property or material and shall be placed in a separate sealed envelope or container, as appropriate, prior to being forwarded to the clerk of the appellate court. The procedures within this rule shall apply to property or material falling within the scope of § 27-1301 which is introduced into evidence in a court proceeding, whether it is received or excluded by the court, if such evidence is retained by the court as part of the record in the case.

(3) Upon return of such evidence to the trial court following disposition of an appeal, care, custody, and control of such material or property shall remain the responsibility of that court until such evidence is returned to the proper introducing attorney in accordance with Neb. Ct. R. §§ 6-501 through 6-505 or as otherwise ordered by the court.

(B)(1) In all appeals involving property or material constituting visual depiction of sexually explicit conduct involving a child, as defined by § 27-1301, if such evidence is forwarded to the clerk of the court to which the appeal is taken, including a district court acting as an appellate court, and becomes part of the record on appeal, the appellate court shall constantly and continuously retain care, custody, and control of such material and it shall not be removed from the office of the clerk except upon order of that court.

(2) The provisions of this rule shall apply to any § 27-1301 property or material at issue in an administrative agency proceeding where such property or material is subsequently filed with the record on appeal to any court.

§ 6-1802. Equipment required for accessing child pornography evidence.

(A) For purposes of making property or material constituting visual depiction of sexually explicit conduct involving a child "reasonably available" to a defendant as required by Neb. Rev. Stat. § 27-1301(3)(a), any specialized equipment or facilities necessary for inspection, viewing, examination, and analysis of such evidence shall be the responsibility of the introducing attorney or law enforcement. Courts shall not be required to acquire or provide specialized equipment or establish new facilities to effectuate the purpose of § 27-1301(3)(a).

(B) If a copy of property or material constituting visual depiction of sexually explicit conduct involving a child is provided to a defense expert pursuant to § 27-1301(3)(b) by any court or agency, any defendant or his or her attorney seeking further access to such evidence in any other court shall be required to show good cause for requiring such access.
